

**Title 30-A: MUNICIPALITIES AND COUNTIES**  
**HEADING: PL 1987, c. 737, Pt. A, §2 (new)**  
**Chapter 151: HEALTH, WELFARE AND IMPROVEMENTS**  
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Maine Revised Statutes

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**Chapter 151: HEALTH, WELFARE AND IMPROVEMENTS**  
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**§3101. EMINENT DOMAIN POWER**

A municipality may acquire real estate or easements for any public use by using the condemnation procedure for town ways, as provided in Title 23, chapter 304, subject to the following provisions. The limitations set forth in this section do not apply to any taking authorized by any other law. [1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. A, §29 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**1. Owner resides on land.** The municipality may not take any land without the consent of the owner if, at the time of the taking, the owner or the owner's family resides in a dwelling house located on the land.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**2. Limitation on use.** Except as provided in paragraph A, land taken under this section may not be used for any purpose other than the purposes for which it was originally taken.

A. Land in any municipality which is taken for a public park may, by authority of a majority vote of the municipal legislative body, be conveyed to the Federal Government to become part of a national park. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**3. Business relocation benefits.** Whenever the acquisition of real property pursuant to this section results in the displacement of a business or farm, the municipality shall provide payment for moving and related expenses as applicable under Title 23, section 244.

[ 2005, c. 642, §4 (NEW) .]

**4. Residence relocation benefits.** Whenever the acquisition of real property pursuant to this section results in the displacement of a person from a dwelling, the municipality shall provide payment for moving and related expenses, as well as replacement housing as applicable under Title 23, sections 244 to 244-C.

[ 2005, c. 642, §4 (NEW) .]

SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§A29,C8,C10 (AMD). 2005, c. 642, §4 (AMD).

## §3102. IMPROVEMENT OF NAVIGATION AND PREVENTION OF EROSION

A municipality may acquire real estate or easements by the condemnation procedure for town ways, as provided in Title 23, chapter 304, and may contract with the State Government and Federal Government to comply with requirements imposed by the Federal Government in authorizing any project which has been approved by the Governor for improving harbor and river navigation or preventing property damage by erosion or flood. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**1. Municipalities may act jointly.** Two or more municipalities may act jointly in performing the operations authorized by this section.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**2. Governor's power.** With regard to such a project, the Governor may:

A. Designate a state agency to make any investigation considered necessary; [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Provide for the State's payment of up to 1/2 of the contribution required by the Federal Government, when the Legislature has made an appropriation for it; and [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Make an agreement with the Federal Government to hold and save it harmless from resulting claims. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD).

## §3103. NATURAL GAS SYSTEMS

**1. Order.** To protect the health and safety of the public, municipalities which have natural gas distribution systems may, without hearing, order the gas company or natural gas pipeline company which distributes natural gas to shut down all or part of that system in any emergency. The municipality shall, by ordinance, set the procedure to be followed in ordering the shutdown.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**2. Refusal.** If the distributing utility refuses to carry out the order given under authority of subsection 1, then the municipal officers may take appropriate action to ensure that the system or any part of the system is shut down. The municipal officers may prescribe criminal penalties for violation of the order.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD). ]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD).

### §3104. ABATEMENT OF NUISANCES

The municipal officers of a municipality may, in the municipality's name, file a complaint in any court of competent jurisdiction requesting the abatement of any public nuisance within the municipality. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD).

### §3105. SMALL BORROW PITS

**1. Requirements.** The following provisions apply to any borrow pit not otherwise within the jurisdiction of the Department of Environmental Protection, under Title 38, chapter 3, subchapter I, article 6, and which is not subject to a municipal ordinance enacted under subsection 2.

A. All borrow pits subject to this subsection shall comply with the following requirements.

(1) The average slope of any cut bank measured from a point located 10 feet from the boundary of any abutting property to the bottom of the cut bank in the pit shall not exceed a horizontal to vertical ratio of 2:1. The owner of the borrow pit is responsible for maintaining this condition.

(2) The top of the cut bank of the borrow pit shall, at no time, be closer than 10 feet from the property boundary of any abutting landowner. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Upon request of any owner of land abutting any borrow pit, the municipal officers shall conduct an inspection of the borrow pit to ascertain compliance with this subsection.

(1) The municipal officers may request the Department of Transportation, Bureau of Project Development, Construction Division, to inspect the borrow pit in place of the municipal inspection. The Construction Division shall conduct an inspection of the borrow pit in question when requested to do so by the municipal officers. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The person or persons conducting the inspection shall report their findings to the municipal officers, the abutting landowner initiating the request and the owner of the borrow pit. Measurements shall be made from the property line designated by the abutting property owner initiating the request. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. If the borrow pit is in violation of this subsection, the owner is liable for the cost of the inspection. If the borrow pit is not in violation of this subsection, the abutting landowner who made the request is liable for the cost of the inspection. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Upon notification of any violation under this subsection, the owner of the borrow pit shall bring the borrow pit into compliance with this subsection within 60 days. The municipal officers may require a shorter compliance period if they find that the violation poses an imminent danger to public safety or private property. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. Any owner of a borrow pit who fails to bring the borrow pit into compliance with this subsection is subject to a civil penalty not to exceed \$50 per day for every day elapsing after the expiration of the compliance schedule established under paragraph E, payable to the municipality in which the borrow pit is located, to be recovered in a civil action brought by the municipality. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**2. Municipal jurisdiction.** A municipality may enact ordinances under its home rule authority regulating the siting, construction or operation of borrow pits not within the jurisdiction of the Department of Environmental Protection, under Title 38, chapter 3, subchapter I, article 6. The ordinance must, at a minimum, include the requirements of subsection 1, paragraph A, but may include standards which exceed those requirements.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD).

## §3106. DISPOSITION OF ABANDONED PROPERTY

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Covered property" means all tangible property, other than tangible property described in Title 33, section 1954, located in or on real estate acquired by a political subdivision through tax delinquency proceedings pursuant to Title 36 or through any similar procedure created by statute for the collection of unpaid taxes, assessments, expenses or charges. "Covered property" includes all tangible property, other than tangible property described in Title 33, section 1954, located in or on real estate that has been determined to be a dangerous building pursuant to Title 17, chapter 91, subchapter IV. [1999, c. 667, §1 (NEW).]

B. "Political subdivision" has the same meaning as in section 2252. [1999, c. 667, §1 (NEW).]

[ 1999, c. 667, §1 (NEW) .]

**2. Procedure.** A political subdivision may dispose of covered property that has been abandoned in accordance with this section.

A. The municipal officers in the case of a city, town or plantation, the county commissioners in the case of a county and in all other cases the governing board of a political subdivision, or the designee of any of these, may give written notice to the owner or owners of covered property, if known, instructing the owner or owners to remove the covered property from the real estate in or on which it is located within 21 days after receipt of the notice. [1999, c. 667, §1 (NEW).]

B. Notice must be mailed by certified mail, return receipt requested, to the owner or owners of the covered property. Notice is sufficient under this paragraph if the signed receipt is returned or the certified mail is returned as refused by the recipient. [1999, c. 667, §1 (NEW).]

C. If sufficient notice was not given under paragraph B or if, with reasonable diligence, the identity or the address of an owner or owners can not be determined, the notice is sufficient if it is not mailed but published twice consecutively in a daily or weekly newspaper having general circulation in the municipality or political subdivision in which the covered property is located. [1999, c. 667, §1 (NEW).]

D. The political subdivision has no responsibility to safeguard or otherwise preserve or protect the covered property pending restoration to its owner or other disposal. [1999, c. 667, §1 (NEW).]

[ 1999, c. 667, §1 (NEW) .]

**3. Content of notice.** Whether mailed or published, notice need not include a roster or inventory of the covered property, but need only state that tangible personal property that may belong to the addressee, owner or former owner is located in or on real property within the ownership or control of the political subdivision, and that on contact with the originating political subdivision, arrangements can be made for removal of covered property belonging to that addressee, owner or former owner.

[ 1999, c. 667, §1 (NEW) .]

**4. Disposal of covered property.** If the covered property is not claimed within 21 days after notice is given under subsection 2 or if the owner or owners have claimed the property within the 21 days but have not taken possession of the property within 10 days of claiming it, the political subdivision shall:

A. Sell the covered property in a commercially reasonable manner; or [1999, c. 667, §1 (NEW).]

B. If the property has no market value, otherwise dispose of the property. [1999, c. 667, §1 (NEW).]

[ 1999, c. 667, §1 (NEW) .]

**5. Deposit of funds.** After the sale of the property, the political subdivision may apply proceeds from the sale to unpaid taxes, assessments and expenses of storage, notice and sale. Any balance and the records of the sale must be reported and delivered to the Treasurer of State in accordance with Title 33, section 1959, subsection 1.

[ 1999, c. 667, §1 (NEW) .]

#### SECTION HISTORY

1999, c. 667, §1 (NEW).

## §3107. ABANDONED CEMETERIES

**1. Abandoned cemetery.** For purposes of this section, "abandoned cemetery" means a cemetery in which no burial has been made in the previous 40 years and the lots or grave sites of which have not been maintained within the previous 10 years, except for maintenance rendered by the municipality in which the cemetery is located.

[ 2005, c. 225, §1 (NEW) .]

**2. Acquisition by municipality.** A municipality may acquire an abandoned cemetery, including ownership of any unoccupied lots or grave sites in the cemetery. The municipality shall use due diligence in identifying any owners of the abandoned cemetery or any of the cemetery's unoccupied lots or grave sites and provide notice to the owners of the municipality's intention to acquire the abandoned cemetery. If a municipality cannot locate an owner pursuant to this subsection, the municipality shall publish notice of its intention to acquire the abandoned cemetery for 3 successive weeks in a newspaper having general circulation in the county in which the municipality is located.

[ 2005, c. 225, §1 (NEW) .]

**3. Notice.** The notice required in subsection 2 must give a basic description of the abandoned cemetery by referencing the municipality's tax maps, set a date and place where objections to the acquisition of the abandoned cemetery by the municipality will be received and heard and, if there are unoccupied lots or grave sites in the abandoned cemetery, state the municipality's intention to acquire the unoccupied lots or grave sites.

[ 2005, c. 225, §1 (NEW) .]

**4. Reassertion by owner.** If an owner who receives notice under subsection 2 objects to the municipality's acquisition of the abandoned cemetery or an unoccupied lot or grave site in the cemetery, the owner must in writing object and reassert the owner's right of ownership over the abandoned cemetery or unoccupied lot or grave site within 14 days of the date of the notice. An owner who reasserts ownership rights under this subsection shall promptly conform to all municipal ordinances concerning the abandoned cemetery or unoccupied lot or gravesite.

[ 2005, c. 225, §1 (NEW) .]

**5. Reversion to municipality.** Title to an abandoned cemetery and any unoccupied lots or grave sites described in the notice required under subsection 2 reverts to the municipality if an objection by an owner of the abandoned cemetery or unoccupied lot or grave site within the cemetery is not received by the 15th day after notice is sent to an identified owner or the last notice is published in a newspaper of general circulation as required under subsection 2. After title has reverted pursuant to this subsection, the municipality shall record a confirmation of the acquisition of the abandoned cemetery, including a basic description of the cemetery referencing the municipality's tax maps, in the registry of deeds in the county in which the cemetery is located.

[ 2005, c. 225, §1 (NEW) .]

**6. Maintenance of title and characteristics.** Once title to an abandoned cemetery has been recorded by a municipality, that municipality shall maintain the title in perpetuity and may never transfer title to the cemetery. The municipality shall also maintain the characteristics of the cemetery with no change in use of the cemetery land.

[ 2005, c. 225, §1 (NEW) .]



**7. Survey and preservation plan.** Prior to acquiring an abandoned cemetery under this section, a municipality may cause a survey to be done of the cemetery for which it is acquiring title in order to ascertain the true extent of the cemetery. The municipality may develop a preservation plan with guidance from a local cemetery corporation or association and local or state archaeologists.

[ 2005, c. 225, §1 (NEW) .]

SECTION HISTORY

2005, c. 225, §1 (NEW) .

## **§3108. ASTHMA INHALERS AND EPINEPHRINE PENS**

Municipal employees and volunteers that operate or assist in any municipal recreational program or camp may receive training on how to administer asthma inhalers and epinephrine pens. Municipal employees and volunteers may possess and administer prescribed asthma inhalers and epinephrine pens in order to provide emergency aid. [ 2007, c. 588, §1 (NEW) .]

SECTION HISTORY

2007, c. 588, §1 (NEW) .

## **§3109. BROADCAST TELEVISION TRANSLATOR STATIONS**

A municipality may receive federal grants or contributions for the construction and operation of a broadcast television translator station as described in 47 Code of Federal Regulations, Section 74.732 (2008). Two or more municipalities may act jointly in performing the operations authorized by this section. [ 2009, c. 117, §2 (NEW) .]

SECTION HISTORY

2009, c. 117, §2 (NEW) .

## **§3110. ROAD-NAMING DISPUTES**

Unless otherwise provided by local ordinance or charter, when there is a dispute over the naming of a town way, private way or private road for E-9-1-1 purposes, the decision of the municipal officers is final. [ 2009, c. 477, §1 (NEW) .]

SECTION HISTORY

2009, c. 477, §1 (NEW) .

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